

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA  
ERIE DIVISION

PENNSYLVANIA STATE CONFERENCE )  
OF THE NAACP, ET AL., )  
Plaintiffs, ) 1:22-CV-00339-SPB  
vs. )  
AL SCHMIDT, IN HIS OFFICIAL )  
CAPACITY AS ACTING SECRETARY OF )  
THE COMMONWEALTH; ET AL., )  
Defendants )  
SUSAN PARADISE BAXTER  
UNITED STATES DISTRICT JUDGE

**O R D E R**

Following the entry of judgment in this matter, a Motion to Intervene was filed by Richard Marino. ECF No. 351. Additionally, the RNC, along with Mr. Marino filed an Expedited Motion for Stay Pending Appeal. ECF No. 353. On December 4, 2023, this Court ordered that oppositions to the pending motions be filed by December 11, 2023. ECF No. 361.

Two days later, the RNC filed a Notice of Appeal to the Third Circuit Court of Appeals. ECF No. 362. Yesterday, the RNC and the purported intervenor provided Notice to this Court that they had filed a Motion to Intervene and a Motion for Stay in the Third Circuit. ECF No. 364. *See also* Court of Appeals Case No. 23-3166, ECF Nos. 8, 9. The Court of Appeals has directed responses to those motions be filed by Tuesday, December 12, 2023. *Id.*, at ECF No. 11.

Generally, a district court is divested of jurisdiction when a notice of appeal is filed. *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982) (“The filing of a notice of

appeal is an event of jurisdictional significance—it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal.”). *See also Venen v. Sweet*, 758 F.2d 117, 121 (3d Cir. 1985) (quoting *Griggs*) (filing of a notice of appeal “immediately confer[s] jurisdiction on the Court of Appeals and divest[s] a district court of its control over those aspects of the case involved in the appeal”). “Divest,” the Court of Appeals explained, “means what it says—the power to act, in all but a limited number of circumstances, has been taken away and placed elsewhere.” *Venen*, 758 F.2d at 120-21 (parallel citations omitted). This jurisdictional principle is prudential, preventing “the confusion and inefficiency which would … result were two courts to be considering the same issue … simultaneously.” *In re Advanced Electronics, Inc.*, 283 Fed. Appx. 959, 963-64 (3d Cir. 2008) (quoting *Venen*, 758 F.2d at 121 n.2 (citations omitted)).

Here, the filing of the Notice of Appeal by the Intervenor-Defendants, along with the motions to intervene and for a stay of the judgment order filed in the Third Circuit, directly implicates this jurisdictional principle and creates a risk that two courts will be simultaneously considering the same issue. Accordingly, the pending motion to Intervene, ECF No. [351], and the Expedited Motion to Stay, ECF No. [353], as well as any errata thereto, are **DISMISSED**. The deadline for oppositions to the pending motions is canceled.

DATED this 8th day of December, 2023.

BY THE COURT:

  
SUSAN PARADISE BAXTER  
UNITED STATES DISTRICT JUDGE